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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,024	11/21/2003	Matthew G. Thorn	C51757 0680	3206

35395 7590 09/29/2006

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EXAMINER

LEE, RIP A

ART UNIT PAPER NUMBER

1713

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,024

Applicant(s)

THORN ET AL.

Examiner

Rip A. Lee

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 29, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-28 and 32 is/are allowed.
- 6) ☒ Claim(s) 1-5,9-22,30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This office action follows a request for continued examination (RCE) under 37 § C.F.R. 1.114, filed on June 29, 2006. Claims 1-5, 9-28, and 30-32 are pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-5, 9-22, and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.[†] The claims are drawn to a catalyst substantially free of organoaluminum $Al(X^5)_n(X^6)_{3-n}$. There is no disclosure in the specification that supports this notion. In fact, on page 5, lines 10-15, the inventors indicate that use of organoaluminum compounds are a viable feature of the invention.

Claim Rejections - 35 USC § 102 / 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[†] *Ex Parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff'd mem.*, 738 F.2d 453 (Fed. Cir. 1984). Any claim containing a negative limitation which does not have basis in the original disclosure are rejected under 35 U.S.C. 112, first paragraph for failing to comply with the written description requirement. See MPEP § 2173.05(i).

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4. Claims 1-4, 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawley *et al.* (U.S. 6,667,274).

Examples 51 and 52 disclose a catalyst substantially free of organoaluminum comprising $\text{Me}_2\text{Si}(\text{Ind})_2\text{ZrCl}_2$ / $\text{Me}_2\text{Si}(\text{Me-Ind})_2\text{ZrCl}_2$ and chlorided, zinc-containing alumina.

5. Claims 1, 2, 4, 18-22, 30, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by McDaniel *et al.* (U.S. 6,376,415 and U.S. 6,395,666) for the same reasons set forth in previous office actions. Rejections remain in force until the rejection of claims under 35 U.S.C. 112, 1st paragraph has been overcome.

6. Claims 1-4, 20-22, 30, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawley *et al.* (U.S. 6,667,274) for the same reasons set forth in previous office actions. Rejections remain in force until the rejection of claims under 35 U.S.C. 112, 1st paragraph has been overcome.

Allowable Subject Matter

7. Where the rejection of claims under 35 U.S.C. 112, 1st paragraph is overcome, the rejection of claims 1-4, 30 and 31, as indicated in paragraph 4 (*supra*) would remain in force. For claims drawn to catalyst substantially free of organoaluminum, Hawley *et al.* would not disclose or make obvious the subject matter of dependent claims 5-22.

8. As indicated in the previous office action, the subject matter of claims 23-28 and 32 remains allowable over the cited references.

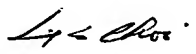
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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September 2, 2006


LING-SUI CHOI
PRIMARY EXAMINER